IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Crl.MC.No. 1099 of 2004

CC.571/2000 of ADDL.CHIEF JUDICIAL MAGISTRATE, ERNAKULAM

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PETITIONERS/ACCUSED:

1. K. GOPINATHAN PILLAI, AGED 72, RESIDING AT PAZHAYIKKAL KOIKKELETH VEEDU, KARAZHMA WEST MURI, CHENNITHALA VILLAGE, MAVELIKKARA TALUK, ALAPPUZHA DISTRICT.

2. B. SANKARI PILLAI, AGED 68, W/O. GOPINATHAN PILLAI RESIDING AT DO. DO.

BY ADV. SRI.R.RAJASEKHARAN PILLAI

RESPONDENTS/DEFACTO COMPLAINANT & STATE:

1. D.C. BOHRA, BOHARA FINANCE, MADRAS, CHENNAI.

2. THE STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PP SRI.P.RAVINDRA BABU

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

Crl.M.C.No. 1099 of 2004

ORDER

The petitioner has produced the memo serving notice on the counsel appearing for the first respondent in the court below, as ordered by this Court on 27.9.2004. Hence, service to the first respondent is declared as sufficient. The first respondent has not entered appearance. Heard the counsel for the petitioner.

2. The prayer in this Crl.M.C. is to quash the proceedings in C.C.No.571/00 on the file of the Additional Chief Judicial Magistrate's Court, Ernakulam on the ground that it is an abuse of the process of court, as all the claims between the parties had been settled by payment of two drafts for Rs.25,000/- each, evidenced by Annexure-II, the receipt of which is acknowledged on behalf of the first respondent and the vehicle also was got released by the petitioners/accused. The first respondent/complainant has to be presumed to have

no interest in the matter, as he has not cared to enter appearance, though stay of the proceedings was ordered as early as on 27.4.2004.

In the circumstances, allowing this Crl.M.C. I quash the proceedings against the petitioners in C.C.No.571/00 on the file of the Additional Chief Judicial Magistrate's Court, Ernakulam.

8th August, 2007 (K.P.Balachandran, Judge)

tkv